

## **AMENDMENTS TO THE DRAWINGS WITHOUT MARKINGS**

### **IN THE DRAWING:**

Figs. 1, 2 have been amended.

## REMARKS

The last Office Action of June 7, 2005 has been carefully considered. Reconsideration of the instant application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1-13 are pending in the application. Claim 10 has been amended. Claim 11 has been canceled. No claim has been added. No amendment to the specification has been made. No fee is due.

It is noted that the drawings are objected to because of applicant's failure to show every feature set forth in the claims and because of some other informalities. Drawing proposals showing the required changes are submitted herewith. Each of the submitted drawing sheets has been labeled "Replacement Sheet".

Claim 10 stands rejected under 35 U.S.C. §102(b) as being anticipated by European. Pat. Appl. No. EP 0892254 (hereinafter "Europe '254").

Claims 12, 13 stand rejected under 35 U.S.C. §102(b) as being anticipated by German Offenlegungsschrift DE 2100096 (hereinafter "German '096").

Claim 12 stands rejected under 35 U.S.C. §102(b) as being anticipated by German Offenlegungsschrift DE 3541533 (hereinafter "German '533").

Claim 11 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Europe '254 in view of U.S. Pat. No. 5,185,117 to Hawley.

It is noted with appreciation that claims 1-9 are allowed.

## **OBJECTION TO THE DRAWING**

Applicant submits herewith a new Fig. 1 showing a box labeled -- EXTRUDER--, as suggested by the Examiner.

The objection to the drawings because of the absence of illustration of the subject matter of claim 7 is respectfully traversed because the illustration of the deflection members in original Fig. 1 and labeled by reference numeral "14" should be considered schematic and includes the illustration of rollers as well. It is believed that the subject matter of claim 7 is sufficiently depicted in Fig. 1.

Fig. 2 has been amended by including the reference to --Prior Art--, as suggested by the Examiner.

Withdrawal of the objection to the drawing is thus respectfully requested.

## **REJECTION UNDER 35 U.S.C. §102(b)**

Applicant has amended claim 10 by incorporating the subject matter of claim 11. The rejection of claim 10 based on Europe '254 thus becomes moot.

The rejection of claims 12 and 13 under 35 U.S.C. 102(b) is respectfully traversed.

Applicant has amended claims 12 and 13 by relating them to a combination of scale assembly and fiber feeding device. More specifically claim 12 now sets forth the provision of two fiber guide units and a scale assembly, wherein one fiber guide unit is securely fixed to the scale assembly,

whereas the other fiber guide unit is decoupled from the scale assembly. In this way, as noted in paragraph **[0024]** of the instant specification, the measurement can be carried in a very precise manner, as the vertical and horizontal force components are decoupled during fiber take-off.

German '096 or German '533 merely teach the provision of fiber guide units but are silent as to a relationship to a scale assembly, as set forth in claim 12, now on file.

Claim 13 which depends from claim 12 and therefore contains all the limitations thereof, patentably distinguishes over the applied prior art in the same manner as claim 12.

Withdrawal of the rejection under 35 U.S.C. §102(b) is thus respectfully requested.

#### **REJECTION UNDER 35 U.S.C. §103(a)**

As noted under the preceding heading, claim 10 has been amended by incorporating the subject matter of claim 11 and by setting forth that endless fibers are involved and drawn from the take-off unit, which may be a spool, drum or roving. Although the instant specification does not expressly refer to "endless" fibers, this is inherent in the instant specification and Fig. 1, for example. Reference is also made for example to **[0021]** which states that "*each fiber strand 12 is routed by its own deflecting element 14*", thus implying the presence of endless fibers.

Europe '254 relates to a separator-weighing device for weighing fibers that are loaded as tangled bundles which are cut to pieces by blades having a saw-toothed edge. Loading cells are provided to measure the bundles of fibers by determining a weight decrease.

The Examiner combines the Europe '254 reference with Hawley which describes the presence of continuous fibers on spools (rolls 64). It is, however, applicant's belief that a person skilled in the art would not make the combination as suggested by the Examiner because Europe '254 describes a device that involves the separation and weighing of tangles bundles and thus has no motivation to look at Hawley to make the suggested combination. The fact that individual elements of the present invention can be found in the prior art is not determinative as to the question of obviousness. As stated by the Federal Circuit in *In re Rouffet*, 47 USPQ2d, 1453, 1457 "Most, if not all, inventions are combinations and mostly of old element. Therefore, an examiner may often find every element of a claimed invention in the prior art. If identification of each claimed element in the prior art were sufficient to negate patentability, very few patents would ever issue. Furthermore, rejecting patents solely by finding prior art corollaries for the claimed elements would permit an examiner to use the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention. Such an approach would be an illogical and inappropriate process by which to determine patentability."

Thus, there must be some motivation to combine the references to create the case of obviousness, and a showing that a skilled artisan, confronted with the

problems as the inventor, would select the elements from the cited prior art references. It is applicant's contention, that the Examiner failed to make a prima facie case of obviousness and failed to explain the motivation one with no knowledge of applicant's invention would have to combine the references in a manner suggested.

For the reasons set forth above, it is applicant's contention that the prior art fails to teach or suggest the features of the present invention, as recited in claim 10.

Withdrawal of the rejection under 35 U.S.C. §103(a) is respectfully requested.

Applicant has also carefully scrutinized the further cited prior art and finds it without any relevance to the newly submitted claims. It is thus felt that no specific discussion thereof is necessary.

### **CONCLUSION**

In view of the above presented remarks and amendments, it is respectfully submitted that all claims on file should be considered patentably differentiated over the art and should be allowed.

Reconsideration and allowance of the present application are respectfully requested.

Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawing, then it is respectfully

requested that such changes be made by Examiner's Amendment, if the Examiner feels this would facilitate passage of the case to issuance. If the Examiner feels that it might be helpful in advancing this case by calling the undersigned, applicant would greatly appreciate such a telephone interview.

Respectfully submitted,

By: 

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